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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

LEONEL CALDERON-ROBLES,
a.k.a. "Leonel Colderon,"
a.k.a. "Leonel Caldreon-Robles,"
a.k.a. "Leonel Calderon,"

Defendant.

Case No.: 2:20-mj-912-DJA

**ORDER to Extend Deadlines to
Conduct Preliminary Hearing and
File Indictment (Second Request)**

IT IS HEREBY STIPULATED AND AGREED, by and between Nicholas A. Trutanich, United States Attorney, and Kimberly M. Frayn, Assistant United States Attorney, counsel for the United States of America, and Margaret Lambrose, Assistant Federal Public Defender, counsel for Defendant LEONEL CALDERON-ROBLES, that the Court schedule the preliminary hearing in this case for no earlier than 90 days from the current date, January 25, 2021. This request requires that the Court extend two deadlines: (1) that a preliminary hearing be conducted within 14 days of a detained defendant's initial appearance, *see* Fed. R. Crim. P. 5.1(c); and (2) that an information or indictment be filed within 30 days of a defendant's arrest, *see* 18 U.S.C. § 3161(b).

1 This stipulation is entered into for the following reasons:

2 1. The United States Attorney's Office has developed an early disposition
3 program for immigration cases, authorized by the Attorney General pursuant to the
4 PROTECT ACT of 2003, Pub. L. 108-21.

5 2. The early disposition program for immigration cases is designed to: (1) reduce
6 the number of hearings required in order to dispose of a criminal case; (2) avoid having
7 more cases added to the court's trial calendar, while still discharging the government's duty
8 to prosecute federal crimes; (3) reduce the amount of time between complaint and
9 sentencing; and (4) avoid adding significant time to the grand jury calendar to seek
10 indictments in immigration cases, which in turn reduces court costs.

11 3. The government has made a plea offer in this case that requires defendant to
12 waive specific rights and hearings in exchange for "fast-track" downward departure under
13 USSG § 5K3.1. This offer will be withdrawn if it is not timely accepted before this matter is
14 indicted and before a preliminary hearing is held. The parties have reached an agreement in
15 principle and a change of plea hearing date has been set for February 19, 2021, before Judge
16 Mahan in case number 2:20-cr-341-JCM-DJA.

17 4. Under Federal Rule of Criminal Procedure 5.1(c), the Court "must hold the
18 preliminary hearing within a reasonable time, but no later than 14 days after the initial
19 appearance if the defendant is in custody"

20 5. However, under Rule 5.1(d), "[w]ith the defendant's consent and upon a
21 showing of good cause—taking into account the public interest in the prompt disposition of
22 criminal cases—a magistrate judge may extend the time limits in Rule 5.1(c) one or more
23 times"

1 6. Furthermore, under the Speedy Trial Act, 18 U.S.C. § 3161(b), “[a]ny
2 information or indictment charging an individual with the commission of an offense shall be
3 filed within thirty days from the date on which such individual was arrested or served with a
4 summons in connection with such charges.”

5 7. If the court ultimately does not accept the defendant’s change of plea, he will
6 need additional time to review the discovery, investigate potential defenses, and prepare for
7 the preliminary hearing.

8 8. Accordingly, the parties jointly request that the Court schedule the
9 preliminary hearing in this case no sooner than 90 days from the January 25, 2021 hearing
10 date.

11 9. Defendant is in custody and agrees to the extension of the 14-day deadline
12 imposed by Rule 5.1(c) and waives any right to remedies under Rule 5.1(c) or 18 U.S.C.
13 § 3161(b), provided that the information or indictment is filed on or before the date ordered
14 pursuant to this stipulation.

15 10. The parties agree to the extension of that deadline.

16 11. This extension supports the public interest in the prompt disposition of
17 criminal cases by permitting defendant to consider entering into a plea agreement under the
18 United States Attorney’s Office’s fast-track program for § 1326 defendants.

19 12. Accordingly, the additional time requested by this stipulation is allowed
20 under Federal Rule of Criminal Procedure 5.1(d).

21 13. In addition, the parties stipulate and agree that the time between today and
22 the scheduled preliminary hearing is excludable in computing the time within which the
23 defendant must be indicted and the trial herein must commence pursuant to the Speedy
24

1 Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), considering the factors under 18 U.S.C.
2 § 3161(h)(7)(B)(i) and (iv).

3 14. This is the second request for an extension of the deadlines by which to
4 conduct the preliminary hearing and to file an indictment.

5 DATED this 8th day of January, 2021.

6 Respectfully submitted,

7 NICHOLAS A. TRUTANICH
United States Attorney

8 /s/ Margaret Lambrose

9 Margaret Lambrose
Assistant Federal Public Defender
10 Counsel for Defendant
LEONEL CALDERON-ROBLES

/s/ Kimberly M. Frayn

KIMBERLY M. FRAYN
Assistant United States Attorney

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**[Proposed] Order on Stipulation to
Extend Deadlines to Conduct
Preliminary Hearing and
File Indictment**

Based on the stipulation of counsel, good cause appearing, and the best interest of justice being served; the time requested by this stipulation being excludable in computing the time within which the defendant must be indicted and the trial herein must commence pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(b) and (h)(7)(A), and Federal Rule of Criminal Procedure 5.1, considering the factors under 18 U.S.C. § 3161(h)(7)(B)(i) and (iv):

IT IS THEREFORE ORDERED that the preliminary hearing currently scheduled on January 25, 2021 be vacated and continued to April 26, 2021, at 4:00 p.m. Courtroom 3A.

DATED this 11th
day of January, 2021.



HONORABLE DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE